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**NOTICE OF NEW PREPAID SALES TAX COLLECTION AND  
REPORTING REQUIREMENTS FOLLOWING THE  
ENACTMENT OF PUBLIC ACT 509 of 2012  
AND PUBLIC ACT 1 OF 2013**

With the enactment of Public Act 509 of 2012 and Public Act 1 of 2013, the scope of Michigan's prepaid sales tax under MCL 205.56a will be expanded, effective April 1, 2013, to include a broader range of "fuel" subject to the prepaid sales tax requirements such as diesel fuel. The procedures for collecting and reporting the prepaid sales tax for this broader range of fuel will generally follow those already in place since 1984 with respect to gasoline. Public Act 1 of 2013 will also change the frequency of the Department's prepaid sales tax rate determinations from a quarterly to a monthly basis.

Prepaid Sales Tax on Gasoline Only (through March 31, 2013)

Currently, and continuing *through March 31, 2013*, purchasers or receivers of **gasoline** are required to prepay a portion of the sales tax to the refiner, pipeline terminal operator, or marine terminal operator at the time of purchase or shipment. Likewise, if the purchase or receipt of **gasoline** is made outside Michigan for shipment into and subsequent sale within Michigan, the purchaser or receiver (excluding a refiner, pipeline terminal operator, or marine terminal operator) must make the prepayment required under MCL 205.56a directly to the Department.

The prepayment rate *through March 31, 2013* is determined by the Department **every 3 months** based on 6% of the statewide average retail price of a gallon of self-serve unleaded regular gasoline (rounded up to the nearest 1/10 of 1 cent) unless the Department certifies that the change in the statewide average retail price of a gallon of self-serve unleaded regular gasoline has been less than 10% since the previous rate determination. The prepayment rate is published by the Department through the issuance of Revenue Administrative Bulletins (RABs). The prepayment rate in effect for the period *March 1, 2013 through March 31, 2013* was published by the Department in RAB 2013-3 (replacing RAB 2013-2 which had previously published the rate effective March 1, 2013 under prior law).

Prepaid Sales Tax on Fuel (Effective April 1, 2013)

*Effective April 1, 2013*, the sales tax prepayment collection and reporting obligations under MCL 205.56a are expanded to a broader category of fuels. This is accomplished by requiring prepayment with respect to "fuel," which is a defined term added to MCL 205.56a by Public Act 509 of 2012. The term "fuel" includes both "gasoline" (which includes, among other things, alcohol and any oxygenate that can be blended for use in a motor fuel) and "diesel fuel" (which

excludes dyed diesel fuel, kerosene and any excluded liquid) as those terms are defined in MCL 205.56a(11).

Taxpayers should closely examine these definitions to determine whether the fuel purchased or received is subject to the prepaid sales tax. These definitions are not the same as those found in the Motor Fuel Tax Act, MCL 207.1001 et seq.

Therefore, *beginning April 1, 2013*, purchasers or receivers of ***fuel*** will be required to prepay a portion of the sales tax to the refiner, pipeline terminal operator, or marine terminal operator at the time of purchase or shipment as set forth in MCL 205.56a. Likewise, *beginning April 1, 2013*, if the purchase or receipt of ***fuel*** is made outside Michigan for shipment into and subsequent sale within Michigan, the purchaser or receiver (excluding a refiner, pipeline terminal operator, or marine terminal operator) must make the prepayment required under MCL 205.56a directly to the Department. The prepaid sales tax is to be reported for both gasoline and diesel fuel on Form 173 (as revised 03/13).

The prepayment rate to be paid by purchasers or receivers of fuel will depend on whether the fuel is “gasoline” or “diesel fuel” because the Department will be required to determine separate rates for each fuel type. These rates will be determined by the Department on a ***monthly*** basis and published by the Department no later than the 10<sup>th</sup> day of the month immediately preceding the month in which the new prepayment rates will be in effect. The prepayment rate for gasoline will be based on 6% of the statewide average retail price of a gallon of self-serve unleaded regular gasoline (rounded up to the nearest 1/10 of 1 cent). The prepayment rate for diesel fuel will be based on 6% of the statewide average retail price of a gallon of undyed No.2 ultra-low sulfur diesel fuel (rounded up to the nearest 1/10 of 1 cent). The prepayment rates in effect for the month of April 2013 were published by the Department in RAB 2013-3.

#### Diesel Fuel Advanced Prepaid Credit

To aid retailers in paying the newly established prepaid sales tax to their wholesalers and/or suppliers for their ***diesel*** fuel purchases and receipts made *during the month of April 2013*, Public Act 1 of 2013 provides for an estimated prepaid credit which retailers may claim by filing Form 5042 (Diesel Fuel Advanced Prepaid Credit). The credit which may be claimed on Form 5042 shall be based on the taxpayer’s retail sales of ***diesel*** fuel for the month of *March 2013*. This means that the credit must be equal to the retail sales of ***diesel*** fuel that the taxpayer is reporting on Form 160 (Combined Return For Michigan Taxes) for the month of *March 2013*. The due date for filing Form 160 (to report March 2013 retail sales) and for filing Form 5042 (to claim the diesel fuel advanced prepaid credit) is *April 20, 2013*.

The diesel fuel advanced prepaid credit claimed on Form 5042 must be repaid to the Department by filing Form 5043 (Repayment of 2013 Diesel Fuel Advanced Prepaid Credit) by the earlier of: (i) the date that the retailer stops selling diesel fuel or; (ii) *October 15, 2013*.

### Environmental Protection Regulatory Fee

The Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.101 *et seq.* (NREPA), imposes an Environmental Protection Regulatory Fee (Fee) at the time “refined petroleum” is sold by the refiner or importer for resale or consumption in this state. MCL 324.21508(1). The NREPA defines “refined petroleum” as aviation gasoline, middle distillates, jet fuel, kerosene, gasoline, residual oils and any oxygenates that have been blended with any of these products. MCL 324.21503(e). Middle distillates include diesel fuel. The NREPA requires the Department to collect the Fee from persons who refine petroleum in Michigan for resale or consumption in Michigan and from persons who import refined petroleum in Michigan for resale or consumption in Michigan. MCL 324.21508(2). The Fee is to be reported on Form 173 (as revised 03/13).

### New and Revised Forms

In addition to revising Form 173, the Department is revising Form 429 (Gasoline Supplier and Wholesale Distributor Prepaid Sales Tax Report) and Form 2189 (Gasoline Retailer Supplemental Report) to accommodate the reporting of the diesel fuel prepaid sales tax. The Department is finalizing the newly created Form 5043 for the repayment of the estimated prepayment credit, if claimed by the taxpayer on Form 5042. These forms will be available on the Department’s website no later than April 5, 2013.